

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 13 FEB 2006

WIPO


PCT

Applicant's or agent's file reference 11177P5 WOKC	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/GB2004/004423	International filing date (day/month/year) 20.10.2004	Priority date (day/month/year) 31.10.2003	
International Patent Classification (IPC) or national classification and IPC A01M23/10, A01M23/30			
Applicant RECKITT BENCKISER (AUSTRALIA) PTY LIMITED et al.			

- This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 7 sheets, including this cover sheet.
- This report is also accompanied by ANNEXES, comprising:
 - ☒ sent to the applicant and to the International Bureau a total of 6 sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

- This report contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

Date of submission of the demand 12.08.2005	Date of completion of this report 10.02.2006
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Simson, G Telephone No. +49 89 2399-2078



BEST AVAILABLE COPY

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2004/004423

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-6 as originally filed

Claims, Numbers

1-33 received on 12.08.2005 with letter of 05.08.2005

Drawings, Sheets

1/9-9/9 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2004/004423

Box No. IV Lack of unity of invention

1. ☐ In response to the invitation to restrict or pay additional fees, the applicant has:
- ☐ restricted the claims.
 - ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☐ neither restricted nor paid additional fees.
2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with.
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☒ all parts.
 - ☐ the parts relating to claims Nos. .

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-19
	No: Claims	20-26,31,32
Inventive step (IS)	Yes: Claims	1-19
	No: Claims	27-30,33
Industrial applicability (IA)	Yes: Claims	1-33
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2004/004423

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item IV

Lack of unity of invention

Claims 1 and 20 are not unitary according to the requirements of Rule 13 PCT. Claim 1 is directed to an enclosure consisting of a top and a base which can be contra-rotated with respect to each other thereby confining a mouse within the enclosure. Claim 20 is directed to an enclosure having disposed therein a trap mechanism for trapping a mouse between a trap wire and the floor of the enclosure wherein the trigger and the aperture of the enclosure are arranged so as to conceal and isolate the trapped mouse. Since the common feature of both claims, concealing a mouse in an enclosure, is well-known from the prior art, claims 1 and 20 do not have the same or corresponding inventive technical features.

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. The document GB-A-207057 (D1) which is considered to represent the most relevant state of the art, discloses a mousetrap from which the subject-matter of claim 1 differs in that the mousetrap is activatable to trap the mouse by raising of the lever arrangement, which defines a gap between a lever and the enclosure floor, in response to the mouse moving through the gap disengaging the lever arrangement from the stop means.

D1 discloses that the disengagement of the lever arrangement from the stop means is caused by the action of the mouse on a bait spike, but not by a direct raising of the lever by the mouse. The subject-matter of claim 1 is therefore new (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as wanting to be independent from the use of a bait.

The solution to this problem proposed in claim 1 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

the bait spike of D1 represents an arm for triggering the trap by a movement in at least two directions. It appears not to be obvious to rely solely on the lifting moment to the lever produced by the mouse.

Claims 2-19 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 20 -26, 31, 32 is not new in the sense of Article 33(2) PCT. Document US-A-3762093 discloses a mousetrap comprising all features of said claims.
Dependent claims 27-30 and 33 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step, since the skilled person would regard it as a normal - option to include this feature in the mousetrap described in document US-A-3762093 in order to solve the problem posed.

Re Item VII

Certain defects in the international application

Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).

Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.

The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/GB2004/004423

Re Item VIII

Certain observations on the international application

The feature already known from D1 that the gap is defined between a lever and the enclosure floor is considered to be essential and can at least be derived from the figures. It should therefore be incorporated in the preamble of claim 1.